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Local Finance Notice

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IMPLEMENTATION OF PROPERTY TAX LEVY CAP LAW P.L. 2007, C. 62

I. Introduction

Chapter 62 of the Laws of 2007, signed into law earlier this year by Governor Corzine, created several new property tax and local government budgeting initiatives (see [Local Finance Notice 2007-10](#) for an overview). This Local Finance Notice provides direction and guidance on implementing the Property Tax Levy Cap (levy cap) for State Fiscal Year 2008 municipal budgets. It should be carefully reviewed by SFY local financial officials and auditors.

Calendar year municipal, county, and fire district officials can use this Notice as a general guide for planning Calendar 2008 budgets. This direction and guidance, however, is subject to change. Specific guidance for fire district and municipal/county CY 2008 cycles will be separately issued.

It is also important to note the law provides the Director of the Division of Local Government Services authority (N.J.S.A. 40A:4-45.47) to "take such action as is deemed necessary and consistent with the intent ...(of the law)... to implement its provisions."

This Notice provides information on how to calculate the levy cap, how to apply for waivers to the levy cap, and how to use the Excel workbook the Division has prepared to document the levy cap calculation.

The Division has scheduled seminars with the State League of Municipalities to review the process and answer questions. The seminars are scheduled for [September 11 and 17th](#). Copies of this Notice should be shared with other appropriate local officials.

II. Calculation of the Levy Cap

The law (N.J.S.A. 40A:4-45.44 through 45.47) establishes a formula that limits increases in the local unit (municipal, county, or fire district) amount to be raised by taxation (tax levy) for each local unit budget. The law also applies to existing municipal solid waste districts. The only exception to the levy cap are municipalities that have a municipal purpose tax rate of \$.10 or less for the previous tax year (this does not apply to fire and solid waste districts). The policies described in the rest of this Notice apply to both municipalities and solid waste districts.

The levy cap is in addition to the existing appropriation cap for municipalities. The levy cap is a new limitation for fire districts and solid waste districts. Counties must abide by the calculation that results in the lower levy increase between the existing cap and the new law.

The core of the formula is a four percent increase to the previous year's amount to be raised by taxation, which is then subject to various modifications. The formula to calculate the levy cap is as follows:

- **Base Formula**
 - Starting with the prior year amount to be raised by taxation for **municipal** purposes:
 - **Deduct** one-year waivers and exclusions: i.e., retroactive salary payments or other capital improvements (see Sections 5 and 6 of this Notice). *This will not affect the first year.*
 - **Add/deduct** the net cost increase or decrease if service delivery is transferred from one government agency to another (i.e., police dispatching is transferred from the municipality to the county). Please consult with the Division for additional guidance if this provision will be used.
 - **Add** four percent (4%) of the prior year amount to be raised by taxation for municipal purposes
 - **Add** to it the municipal tax value of added assessments, as is done for added assessments under the current cap process. The same process will be used for counties. This is new for Fire Districts and the Municipal Tax Assessor will have to prepare forms based on fire district boundaries (direction on this will be forthcoming).
- **“Add-ons” (exceptions)**
 - **Add** (or deduct if appropriate) “exclusions” to the levy cap calculation (an exclusion is an amount that adjusts the otherwise allowable tax levy):
 - Increase or decrease (deduction) in debt service
 - Increases or decreases (deduction) in **existing** county improvement authority lease payments, including increases in Certificates of Participation, or lease “bank” agreements. An **existing** payment is considered to be part of a financing approved by the Local Finance Board prior to July 1, 2007.
 - Increases in amounts required to be raised to replace State formula aid due to a reduction in State formula aid from the previous local budget year
 - Increase in reserve for uncollected taxes over four percent that is required by law (the maximum collection percentage pursuant to the Annual Financial Statement). For this calculation, the previous year's tax collection rate must be used, or a three year average, if appropriate.
 - Pension increases until contributions are fully phased in pursuant to existing law.
 - Health insurance costs that are an increase in excess of four percent but are less than State health benefits index promulgated by the Division of Pensions and Benefits (7.6 percent for SFY 2008). A new rate will be issued for CY 2008 budgets. This calculation is the same as the one approved for the appropriation cap for FY 2007 budgets.

- Other capital improvements (see Section VI-3)
- **Deduct** starting with FY 2009 budgets, the amount of cancelled or unexpended prior year waivers.
- **Add Waivers** – The Local Finance Board is authorized to grant waivers to address “extraordinary costs.” The Board’s decision on a waiver is final and cannot be appealed. Pursuant to the law, these extraordinary costs “may include but not limited to:”
 - Energy and insurance costs over a four percent increase
 - Increases in capital lease payments (as described in Section VI-2)
 - Offset of the loss of non-recurring revenues
 - Total net expenditures for new mandates¹
 - Net expenditure increases above four percent in mandated costs¹
 - Purposes deemed by LFB to be “essential to protect or promote the public health, safety, or welfare.”
 - Waivers may be determined by the LFB to be permanent or one time
- **Add local referendums**

The law includes a procedure for holding referendums that permit spending over the cap limit. One important provision is that they require a 60 percent approval of those voting to pass.

Waivers that are denied by the Local Finance Board may be put to a referendum. However, a referendum question that fails the 60 percent approval requirement cannot be the subject of a waiver request. The law provides four fixed dates for referendums, but gives the Director the authority to adjust the schedule. The statutory dates for SFY 2008 referendums are September 25 and December 11. Because budgets must be introduced before a referendum can take place, the September 25 date is now extended to October 16. Note that budgets must be introduced 20 days prior to the referendum.

SFY municipalities considering a referendum are encouraged to contact the Division to address logistical details as soon as possible.

III. Budget Process Issues

The levy cap requires changes to technical elements of the Division’s budget review process. Municipal budgets must comply with the following provisions:

1. The introduced budget must be “cap compliant.” This means that the budget must be at or under cap for both the appropriation cap and the levy cap. All required budget documentation must be consistent with the introduced budget.
2. All budgets must include a Levy Cap Calculation Workbook (see Section IV). SFY 2008 municipalities that submitted their budgets prior to this Notice must complete the Workbook and submit it as soon as possible.
3. Waiver applications related to actions to make the introduced budget cap compliant, must be filed prior to and not later than the date of budget introduction. This includes applications for

¹ For this purpose, the law defines a “mandate” as those services “that are mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditure on certification to the Local Finance Board by the State agency.

levy, surplus, asset sale, and cash deficit waivers (see Section V). Based upon budget review or local circumstances, a municipality may apply for additional waivers.

4. An introduced budget requiring waivers for increased appropriations must include separate line items reflecting the waiver application.
5. As in the past, Extraordinary Aid cannot be anticipated in the budget. SFY Municipalities applying for both Extraordinary Aid and waivers must have all documents filed no later than the Extraordinary Aid deadline of September 28, 2007.
6. Any waiver or Extraordinary Aid application eliminates a municipality from participating in the local examination process.

Budget Message: The Budget Message section of the budget must include information concerning the levy cap in addition to the traditional information on the appropriation cap. The budget document preparer must include the following elements in the message:

- Narrative describing compliance issues relating to both caps
- “Split function tables” that show the total appropriations of services that are inside and outside of the appropriation cap, and of any appropriations that are subject to a waiver request
- Explanation of all waiver requests
- County budgets must show both cap calculations to explain the cap limit that applies

IV. Levy Cap Calculation Workbook

The Division has prepared an Excel spreadsheet workbook for local units to calculate and document levy cap related calculations.

The Levy Cap Calculation Workbook is a single file with several worksheets and designed for use in versions of Excel 2000 or later. The SFY 2008 workbook is posted under [SFY 2008 Budget forms](#) on the Division’s Financial Regulation and Assistance website. Subsequent workbooks will be issued for CY 2008 budgets.

The workbook contains several tabs that will calculate the following elements:

1. An instructions/data entry sheet
2. Levy Cap Summary
3. Debt Service change calculation
4. Pension contribution calculation
5. Reserve for Uncollected taxes calculation
6. Health care costs calculation

The cap calculation workbook is designed using spreadsheet protection features. Users can only edit the cells on the first (data entry) tab. This sheet is in narrative style that prompts the user to insert appropriate amounts. The amounts and subsequent calculations are displayed in the individual tabs. By completing all the relevant questions on the first tab, the spreadsheet will complete itself. Users can then save and print the sheet (File/Print and check Entire Workbook).

To avoid confusion, those cells that do not have an impact the first year (i.e., deduction of one-time waivers) have been locked and blackened out in the workbook. They can be disregarded for FY 2008 only.

The file must be submitted via e-mail to the Division at lfh@dca.state.nj.us. So the Division’s computer program will recognize the file, it must be named in accordance with a precise naming requirement. A key to that is the municipality’s four-digit “municode” – the code number found at the

top of all Division of Local Government Services online aid certifications and Municipal Information Sheets.

Users must use their Municode number and the following system when naming files submitted via e-mail. The use of an underscore (_) in the file name means the uppercase hyphen and must be included in the two separate places in each filename. In the example that follows, a sample municode (2205) is used.

Levy Cap Calculation = *MuniCode_LCC_Year.xls*

For example, for a municipality with the Municode 2205, a Levy Cap Calculation workbook would be named: *2205_lcc_2008.xls*.

V. Applying for Budget Cap Waivers

The Division is implementing an online filing process for applying to the Local Finance Board for Levy Cap and existing Appropriation Cap waivers (surplus, cash deficit, and asset sale). A common application form is used for both type of waivers.

Application Filing: A Budget Cap Waiver application consists of two primary documents; an Excel workbook for data elements (like the Levy Cap Calculation) and a Word document for the Executive Summary. Both must be submitted by e-mail. Other documents related to the application can be submitted by e-mail. This includes the governing body authorizing resolution, application certification, and any exhibit documents in PDF (Acrobat), Word, or Excel formats.

The Waiver Application form and a separate document of instructions on completing them are on the [Local Finance Board web site](#).

Displaying waivers in budget: Waivers for appropriations are shown on budget sheets as separate line items in the budget in accordance with the following procedures:

1. Separate FCOA CAFR Codes have been created to reflect waivers:
 - 47 - for Levy Cap Waivers
 - 49 - for Appropriation Cap Waivers (surplus, sale of asset, cash deficit)
2. The Subsidiary Level code (next three digits) for the type of appropriation would be the regular code for the line item. It is similar to the procedure used to code Shared Service Agreements.
3. Appropriation Cap Waivers continue to appear on sheet 20 of the budget with this new coding system and the appropriation heading of Appropriation Cap Waiver.
4. Levy cap waiver appropriation line items are shown as: "Levy Cap Waiver (appropriation name)" with the corresponding FCOA code.

For example, a Levy Cap waiver for energy costs would be listed immediately below its inside the cap appropriation: i.e.:

Electricity Other Expenses	31-430	xxx,xxx
Levy Cap Waiver Electricity Other Expenses	47-430	xx,xxx

5. If a Levy Cap Waiver request is for a purpose that spans multiple line items (i.e., if energy costs are broken into several line items and the request is for energy cost increases that exceed four percent), the waiver may be displayed as a single line item for the total on an appropriate sheet in the budget.

6. The waiver application should include any breakouts or other calculation data as an exhibit in the application.
7. Waiver requests to offset losses in local revenues are not reflected as budget line items. If approved by the Board, they will be reflected as an increase in the allowable amount to be raised by taxation without any other offsetting line item.

Waiver Reviews: Waiver applications will not automatically be scheduled for the next Board meeting following its submission. They will become part of the budget review process. When budget review is complete, the waiver application will be scheduled for a Board meeting. Applicants should also be aware that if waivers are requested, it is likely that the Division's budget review may not be completed in time for the local unit's budget hearing date.

It is possible that amendments to the Waiver may be required based on budget review and consultation with local officials. If so, staff will make those changes internally and reflect them for LFB review.

Post Local Finance Board Action: Once the Board has acted, the results will be sent electronically to the applicant. The municipality must then amend the budget, if necessary to reflect any Division amendments or Board action that was not reflected on the original budget or subsequent amendments.

If a levy cap waiver is denied, the local unit can proceed, pursuant to the law and conduct a local cap referendum.

VI. Other Levy Cap Issues

This section reviews several special circumstances and interpretations concerning how the levy cap is implemented. Please review them carefully to determine any impact on individual circumstances.

1) Transfers and waivers: Transfers to or from waiver line item appropriations are not permitted at any time. In addition, waivers that are unexpended or reserved at the end of the fiscal year must be cancelled at year end, unless reserves are justified to the Division. The Division will order the cancellations if balances are found during review of the following year's budget, and the levy cap adjusted accordingly.

2) County Improvement Authority (CIA) Lease Issues: The following principles can be applied to determine how CIA lease agreements are treated:

- Lease obligations stemming from Local Finance Board financing applications that received positive findings prior to July 1, 2007 are to be included as eligible CIA obligations.
- Excess funds cannot be transferred to other appropriations.
- The Division will treat CIA "bank" program "loans" the same as leases. Changes in existing obligations are handled as levy cap add-ons. New loan agreements must be handled either inside the base or as a waiver.

3) Capital spending based adjustments: The Division recognizes that the law does not address various accounting transactions related to capital spending and its relationship to debt authorizations and deferred charges. To that extent, the Director has determined that the following practices will apply:

- Deferred charges to future taxation unfunded will be treated as a one-time levy cap exclusion when used for capital improvement purposes.
- The capital improvement fund appropriation will be treated as a one time levy cap exclusion.

- Capital items fully funded in the current year budget must be either covered within the levy cap base or by requesting a waiver.

4) Treatment of Unexpended Appropriations: Any cancelled or unexpended appropriations for exclusions will be deducted from the adjusted levy based on the audit report.

Questions concerning any of the procedures or forms in this Notice can be e-mailed to the Division at dlgs@dca.state.nj.us.

Approved: Susan Jacobucci, Director

Table of Web Links

Page	Shortcut text	Internet Address
1	Local Finance Notice 2007-10	http://www.nj.gov/dca/lgs/lfns/07lfns/2007-10.doc
1	NJSLOM Seminars	http://www.njslom.org/cal_2007_SEPTEMBER.html
4	SFY 2008 Budget Forms	http://www.nj.gov/dca/lgs/fiscal/budmenu.shtml
4	Local Finance Board e-mail	lfb@dca.state.nj.us
5	Local Finance Board website	http://www.nj.gov/dca/lgs/lfb/lfbmenu.shtml
6	DLGS e-mail	dlgs@dca.state.nj.us